

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MINNESOTA

IN RE:

Case No: 13-41928

Malinda Swalboski,

Debtor(s).

Chapter 13

**NOTICE OF HEARING ON
PRE-CONFIRMATION MODIFIED PLAN**

Please take notice that a hearing on the pre-confirmation modified plan filed on May 31, 2013, will be presented to the court for confirmation on July 2, 2013, at 10:30 a.m. at U S Court Courtroom 7 West, 300 S 4th Street Minneapolis, MN 55415.

Dated this 31st day of May 2013.

HELLER & THYEN, P.A.

/s/ Robert S. Thyen
Robert S. Thyen
Attorney for Debtor
606 25th Avenue South, Suite 110
St. Cloud, MN 56301
320-654-8000

IN RE:

Swalboski, Malinda Jane

Debtor(s)

Case No. **13-41928**

Chapter **13**

MODIFIED CHAPTER 13 PLAN

Dated: **May 31, 2013**.

1. PAYMENTS BY DEBTOR TO TRUSTEE –

- a. As of the date of this plan, the debtor has paid the trustee \$ **575.00**.
- b. After the date of this plan, the debtor will pay the trustee \$ **575.00** per **month** for **59** months, beginning June 2013 for a total of \$ **33,925.00**. The minimum plan length is [] 36 or [X] 60 months from the date of the initial plan payment unless all allowed claims are paid in a shorter time.
- c. The debtor will also pay the trustee: **n/a**
- d. The debtor will pay the trustee a total of \$ **34,500.00** [line 1(a) + line 1(b) + line 1(c)].

2. PAYMENTS BY TRUSTEE – The trustee will pay from available funds only creditors for which proofs of claim have been filed. The trustee may collect a fee of up to 10% of plan payments, or \$ **3,450.00**, [line 1(d) x .10].

3. ADEQUATE PROTECTION PAYMENTS [§ 1326(a)(1)(C)] – The trustee will promptly pay from available funds adequate protection payments to creditors holding allowed claims secured by personal property, according to the following schedule, beginning in month one (1).

<i>Creditor</i>	<i>Monthly Payment</i>	<i>Number of Months</i>	<i>TOTAL PAYMENTS</i>
None			
TOTAL			0.00

4. EXECUTORY CONTRACTS AND UNEXPIRED LEASES [§ 365] – The debtor assumes the following executory contracts or unexpired leases. Cure provisions, if any, are set forth in ¶ 7.

<i>Creditor</i>	<i>Description of Property</i>
Verizon Wireless	2 Year Cell Phone Contract expires 6/2014
Eugene Fisk	Residential Lease- Month-to-Month

5. CLAIMS NOT IN DEFAULT – Payments on the following claims are current and the debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens, if any.

<i>Creditor</i>	<i>Description of Claim</i>
None	

6. HOME MORTGAGES IN DEFAULT [§ 1322(b)(5) and § 1322(e)] – The trustee will cure defaults on the following claims secured only by a security interest in real property that is the debtor's principal residence. The debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens. All following entries are estimates. The trustee will pay the actual amounts of default.

<i>Creditor</i>	<i>Amount of Default</i>	<i>Monthly Payment</i>	<i>Beginning in Month #</i>	<i>Number of Payments</i>	<i>TOTAL PAYMENTS</i>
None					
TOTAL					0.00

7. CLAIMS IN DEFAULT [§ 1322 (b)(3) and (5) and § 1322(e)] – The trustee will cure defaults on the following claims as set forth below. The debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens, if any. All following entries are estimates, except for interest rate.

<i>Creditor</i>	<i>Amount of Default</i>	<i>Int. rate (if any)</i>	<i>Monthly Payment</i>	<i>Beginning in Month #</i>	<i>Number of Payments</i>	<i>TOTAL PAYMENTS</i>
None						
TOTAL						0.00

8. OTHER SECURED CLAIMS; SECURED CLAIM AMOUNT IN PLAN CONTROLS [§ 1325(a)(5)] – The trustee will pay, on account of the following allowed secured claims, the amount set forth in the “Total Payments” column, below. The creditors will retain liens securing the allowed secured claims until the earlier of the payment of the underlying debt determined under nonbankruptcy law, or the date of the debtor's discharge. NOTWITHSTANDING A CREDITOR'S PROOF OF CLAIM FILED BEFORE OR AFTER CONFIRMATION, THE AMOUNT LISTED IN THIS PARAGRAPH AS A CREDITOR'S SECURED CLAIM BINDS THE CREDITOR PURSUANT TO 11 U.S.C. § 1327, AND CONFIRMATION OF THE PLAN IS A DETERMINATION OF THE CREDITOR'S ALLOWED SECURED CLAIM.

Creditor	Claim Amount	Secured Claim	Int. Rate	Beginning in Month #	Monthly Payment	Number of Payments	Payments on Account of Claim	Adequate Protection from ¶ 3	TOTAL PAYMENTS
None									
TOTAL									0.00

9. PRIORITY CLAIMS – The trustee will pay in full all claims entitled to priority under § 507, including the following. The amounts listed are estimates. The trustee will pay the amounts actually allowed.

Creditor	Estimate Claim	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
Heller & Thyen, P.A.	3,000.00	250.00	1	12	3,000.00
IRS	18,356.91	407.94	13	45	18,356.91
MN Department Of Revenue, Collection Div	691.00	115.17	1	6	691.00
TOTAL					22,047.91

10. SEPARATE CLASSES OF UNSECURED CREDITORS – In addition to the class of unsecured creditors specified in ¶ 11, there shall be separate classes of non-priority unsecured creditors described as follows:
The trustee will pay the allowed claims of the following creditors. All entries below are estimates.

Creditor	Int. Rate (if any)	Claim Amount	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
None						
TOTAL						0.00

11. TIMELY FILED UNSECURED CREDITORS – The trustee will pay holders of nonpriority unsecured claims for which proofs of claim were timely filed the balance of all payments received by the trustee and not paid under ¶ 2, 3, 6, 7, 8, 9 and 10 their pro rata share of approximately \$ **9,002.09** [line 1(d) minus lines 2, 6(d), 7(d), 8(d), 9(f), and 10(c)].

- The debtor estimates that the total unsecured claims held by creditors listed in ¶ 8 are \$ **0.00**.
- The debtor estimates that the debtor's total unsecured claims (excluding those in ¶ 8 and ¶ 10) are \$ **171,782.00**.
- Total estimated unsecured claims are \$ **171,782.00** [line 11(a) + line 11(b)].

12. TARDILY-FILED UNSECURED CREDITORS – All money paid by the debtor to the trustee under ¶ 1, but not distributed by the trustee under ¶ 2, 3, 6, 7, 8, 9, 10, or 11 will be paid to holders of nonpriority unsecured claims for which proofs of claim were tardily filed.

13. OTHER PROVISIONS – The trustee may distribute additional sums not expressly provided for herein at the trustee's discretion.

National Student Loan and US Department of Education will receive a pro-rata share through the chapter 13 plan.

Gurstel Chargo will return garnished funds within 10 business days after confirmation of the plan.

The debtor shall provide the trustee with copies of her state and federal tax returns annually. They shall be entitled to retail \$1,200 of the combined net state and federal tax refunds (excluding any earned income credit), and the balance shall be paid to the trustee as an additional plan payment.

The debtor will file as and when due any and all post-petition federal tax returns of any kind; and will timely pay as and when due, any and all post-petition federal tax liabilities of any kind. Debtors failure to file as and when due any and all post-petition federal tax returns of any kind; or failure to timely pay as and when due any and all

post-petition federal tax liabilities of any kind, will constitute grounds for dismissal.

Pursuant to 11 U.S.C. Section 1305, a proof of claim may be filed by any entity that holds a claim against the debtor(s) for taxes that become payable to a governmental unit while the case is pending. The trustee shall only pay 11 U.S.C. Section 1305 claims attributable to the taxable year in which the case concerning such debtor(s) was filed, and only to the extent funds are available.

As to the claims dealt with in paragraphs 5, 6, 7, and 8, in the event of the surrender, foreclosure, repossession, or return of the collateral to the creditor for any reason, the balance of the claim, if any, will be paid as an unsecured claim, discharged by the discharge granted pursuant to 11 USC 1328.

The debtor(s) shall not oppose any creditor claiming a purchase money security interest in and to household furnishings, from availing itself of its legal remedies under the Bankruptcy Code, namely, the submission of an application for relief from stay under 11 U.S.C. Sec. 362. Upon appropriate court order regarding relief from the automatic stay provisions of 11 U.S.C. Sec. 362, the debtor(s) shall not oppose a creditor from availing itself of any applicable state law remedies it believes are available for purposes of reclaiming the household furnishings. Upon appropriate order from the Hennepin County Court, the debtor shall surrender the household furnishings to a creditor in compliance with such Hennepin County Court Order, if any.

In the event of that any secured creditor is granted stay relief and or the surrender, repossession, or return of the collateral to the creditor for any reason, the balance of the claim, if any, will be paid as an unsecured non-priority claim in accordance with non-bankruptcy law, dischargeable upon completion of this Chapter 13 plan.

14. SUMMARY OF PAYMENTS –

Trustee's Fee [Line 2]	\$	3,450.00
Home Mortgage Defaults [Line 6(d)]	\$	0.00
Claims in Default [Line 8(d)]	\$	0.00
Other Secured Claims [Line 8(d)]	\$	0.00
Priority Claims [Line 9(f)]	\$	22,047.91
Separate Classes [Line 10(c)]	\$	0.00
Unsecured Creditors [Line 11]	\$	9,002.09
TOTAL [must equal Line 1(d)]	\$	34,500.00

Robert S Thyen 032288x
Heller & Thyen, P.A.
606 25th Ave S #110
St. Cloud, MN 56301-4810

Signed: /s/ Malinda Jane Swalboski

DEBTOR

Signed: _____

DEBTOR (if joint case)

United States Bankruptcy Court
District of Minnesota

IN RE:

SIGNATURE DECLARATION

Swalboski, Malinda Jane

Debtor(s)

Case No.

13-41928

- ☐ PETITION, SCHEDULES & STATEMENTS
☐ CHAPTER 13 PLAN
☐ SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
☐ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
☒ MODIFIED CHAPTER 13 PLAN
☐ OTHER (Please describe:)

I [We], the undersigned debtor(s) or authorized representative of the debtor, make the following declarations under penalty of perjury:

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- [individual debtors only] If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- [corporate and partnership debtors only] I have been authorized to file this petition on behalf of the debtor.

Date:

5/31/13

X

Signature of Debtor or Authorized Representative

Malinda A. Swalboski

X

Signature of Joint Debtor

Swalboski, Malinda Jane

Printed Name of Debtor or Authorized Representative

Printed Name of Joint Debtor

Heller & Thyen P.A.
Robert S. Thyen
606 25th Avenue S Ste 110
St. Cloud, MN 56301
320 654-8000

Judge:
Hearing Location:
Hearing Date:
Hearing Time:
Response Date:

DATE RECEIVED: May 31, 2013

TIME RECEIVED: 08:30AM

TOTAL SERVED: 31

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE: Malinda Swalboski

CASE NO: 13-41928

CERTIFICATE OF SERVICE

Chapter:

ECF Docket Reference No:

On Friday, May 31, 2013, a copy of the following documents, described below,

Amended Service Letter
Pre-Confirmation Notice and Mod Plan
Signature Declaration

were deposited for delivery by the United States Postal Service, via first class United States Mail, postage prepaid, first class, with sufficient postage thereon to the parties listed on the mailing list attached hereto and incorporated as though fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: May 31, 2013

/s/ Igor Baranov
Igor Baranov
BK Attorney Services, LLC
d/b/a certificateofservice.com, for
Robert S. Thyen
606 25th Avenue S Ste 110
St. Cloud, MN 56301
320 654-8000

Note: The addresses on the attached mailing list were processed through the USPS Zip+4 validation database as well as the USPS National Change of Address Database (NCOA-link) in accordance with the USPS Domestic Mail Manual Rules. The delivery point zip code and carrier routing were imprinted on the mailpiece with an Intelligent Mail Barcode for faster and more reliable delivery.

Label Matrix for local noticing
0864-4
Case 13-41928
District of Minnesota
Minneapolis
Fri May 31 11:33:04 CDT 2013

Capital One, N.A.
Bass & Associates, P.C.
3936 E. Ft. Lowell Rd, Suite #200
Tucson, AZ 85712-1083

~~Minneapolis~~
~~301 U.S. Courthouse~~
~~300 South Fourth Street~~
~~Minneapolis, MN 55415-1320~~

AMERICAN DEBT COUNSELING
14051 NW 14TH ST
SUNRISE, FL 33323-2885

AMEX
PO BOX 297871
FORT LAUDERDALE, FL 33329-7871

BANK OF AMERICA
PO BOX 982235
EL PASO, TX 79998-2235

CAP1/POLRS
PO BOX 30253
SALT LAKE CITY, UT 84130-0253

CHASE
P.O. BOX 15298
WILMINGTON, DE 19850-5298

DEUTSCHE BANK
60 WALL ST
NEW YORK, NY 10005-2858

DISCOVER FIN SVCS LLC
PO BOX 15316
WILMINGTON, DE 19850-5316

Discover Bank
DB Servicing Corporation
PO Box 3025
New Albany, OH 43054-3025

EUGENE FISK
411 S 70TH AVE W
DULUTH, MN 55807-1839

FIA CARD SERVICES, N.A.
4161 Piedmont Parkway
NC4 105 03 14
Greensboro, NC 27410

GURSTEL CHARGO
6681 COUNTRY CLUB DR
GOLDEN VALLEY, MN 55427-4601

IRS
CENTRALIZED INSOLVENCY
PO BOX 7346
PHILADELPHIA, PA 19101-7346

MESSERLI & KRAMER
3033 CAMPUS DR STE 250
PLYMOUTH, MN 55441-2662

MN DEPARTMENT OF REVENUE, COLLECTION DIV
BANKRUPTCY SECTION
PO BOX 64447
SAINT PAUL, MN 55164-0447

NATIONAL CREDIT SYSTEM
3750 NATURALLY FRESH BLVD
ATLANTA, GA 30349-2964

NATIONAL CREDIT SYSTEMS, INC
PO BOX 312125
ATLANTA GA 31131-2125

NATIONAL STUDENT LOAN
1300 O ST
LINCOLN, NE 68508-1511

NELNET ACADEMIC LOAN
PO BOX 7401283
ATLANTA, GA 30374

NELNET ACADEMIC LOAN
PO BOX 740283
ATLANTA, GA 30374-0283

OAK CREST APARTMENTS
1639 COUNTY HIGHWAY 10
MINNEAPOLIS, MN 55432-2202

OAK CREST APTS
C/O NATIONAL CREDIT SYSTEMS INC
PO BOX 312125
ATLANTA GA 31131-2125

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
BANKRUPTCY SECTION
PO BOX 64447
ST PAUL MN 55164 0447

TRUSTONE FIN
6500 OLSON MEM HWY
MPLS, MN 55427

TRUSTONE FINANCIAL CREDIT UNION
PO BOX 1260
MINNEAPOLIS MN 55440-1260

U S DEPT OF ED/GSL/ATL
2505 S FINLEY RD
LOMBARD, IL 60148-4867

US Trustee
1015 US Courthouse
300 S 4th St
Minneapolis, MN 55415-3070

VERIZON WIRELESS
PO BOX 25505
LEHIGH VALLEY, PA 18002-5505

End of Label Matrix

Mailable recipients	32
Bypassed recipients	0
Total	32